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August 12, 2009

Hon. Jose L. Linares, USDJ  
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Re: Wilen vs. Evans, et al.  
Case No.: 2:09-cv-3643(JLL)

Dear Judge Linares:

We represent Omni Asset Management LLC and Avery Eisenreich in an adversary proceeding which is currently pending in the United States Bankruptcy Court, District of New Jersey, entitled Bayonne Medical Center, et al v. Omni Asset Management, et al., Case No. 09-01689MS. In that case an Answer has been filed, a scheduling order has been agreed to and discovery has commenced.

We understand that a motion is pending before Your Honor (returnable on August 17, 2009) in which certain of the defendants in the above matter seek to immediately withdraw the reference. The pleadings contain a fourth party complaint by WithumSmith+Brown as fourth-party plaintiff against our clients, Omni Asset Management LLC and Avery Eisenreich. Our clients have not been served and we have not appeared. However, we recently received a copy of the pending motion.

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Hon. Jose L. Linares

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At this point, given our clients' position in the proceedings, we wish to join in the opposition to the defendants' motion to withdraw the reference. We adopt the reasons set forth by the Debtor's representative, specifically in the Memorandum of Law filed by Andrew H. Sherman, Esq. of Sills Cummis & Gross P.C. dated August 3, 2009. Given the current procedural status (and the expectation that there will be a fourth-party action properly served which will join our clients) it would be unacceptable to have to defend essentially the same litigation or action in two fora, i.e., the Bankruptcy Court (where issue has been joined) and the District Court. The Bankruptcy Court should retain jurisdiction.

Respectfully yours,

  
Richard K. Coplon

RKC/smb

cc: All Counsel (per attached Service List)

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